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## MEMO ENDORSED

May 3, 2021

Hon. Laura Taylor Swain  
United States District Judge  
Southern District of New York  
United States Courthouse  
500 Pearl Street  
New York, NY 10007

Re: Reappointment for Compassionate Release Motion  
**United States v. Osorio-Perez**, S2 16 Cr. 826-008 (LTS)

Dear Judge Swain,

On June 16, 2020, my office filed a motion on behalf of Mr. Osario-Perez for a request of compassionate release or a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(1)(A). The government filed its surreply on June 25, 2020 in opposition of this request and Your Honor denied Mr. Osario-Perez' motion on June 29, 2020. Since that time, the Second Circuit decided *United States v. Brooker*, 976 F.3d 228, 236 (2d Cir. 2020) holding that District Courts are not bound by the limitations of USSG § 1B1.13 in reduction of sentence motions, and have wide "discretion to consider whether any reasons are extraordinary or compelling" Over ten months have expired since Mr. Osario-Perez' first motion, and Covid-19 remains a very real presence in the jails with the death rate in prisons significantly higher than among the general population. On December 23, 2020, Mr. Osario-Perez contracted Covid-19 and had symptoms of fatigue, fever, sore throat, diarrhea, and asthma. These symptoms continued for 27 days causing him to lose 16 pounds. Mr. Osario-Perez received the COVID-19 vaccine on February 9, 2021; however, he continues to have persistent symptoms of headaches and fatigue and is scared for his life. Mr. Osario-Perez has been diagnosed with chronic asthma with acute exasperation. He also suffers from severe obstructed sleep apnea, as well as high blood pressure and obesity, all of which continue to put Mr. Osario-Perez at high-risk for severe illness. Mr. Osario-Perez has contacted my office to seek to have us appointed again to bring a second motion for reduction of

sentence pursuant to 18 U.S.C. § 3582(c)(1)(A). I am respectfully requesting reappointment pursuant to the CJA to assist Mr. Osario-Perez in filing this motion for compassionate release.

Respectfully submitted:

s/Lorraine Gauli-Rufo, Esq

Lorraine Gauli-Rufo

cc: All Counsel of Record

Application granted. DE#557 resolved.

SO ORDERED.

Dated: May 4, 2021

/s/ Laura Taylor Swain, Chief U.S.D.J.